

Scott E. Mollen
M. Darren Traub
HERRICK, FEINSTEIN LLP
2 Park Avenue
New York, NY 10016
212.592.1400

*Attorneys for Defendants Robert W. Seavey,
Phyllis M. Seavey, Avery B. Seavey, Nealle B.
Seavey, Ronald Dawley, Dalton Management
Company, LLC, and the Seavey Organization*

Thomas R. Manisero, Esq. (TM 8548)
William J. Kelly, Esq. (WK 5966)
Wilson, Elser, Moskowitz, Edelman & Dicker LLP
3 Gannett Drive
White Plains, NY 10604
(914) 323-7000
(914) 323-7001 (fax)
Attorneys for Defendants Marks, Paneth & Shron, LLP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN L. EDMONDS, individually and as a managing general partner of Fifth and 106th Street Housing Company, Inc., Logan Plaza Associates, LP, Charles H. Associates a/k/a Charles H. Hill Associates, LP and as a limited partner of Church Home Associates, LP,

Plaintiffs,
-against-

ROBERT W. SEAVEY, individually and as a general partner of Fifth and 106th Street Housing Company, Inc., Logan Plaza Associates, LP, Charles H. Associates a/k/a Charles H. Hill Associates, LP and as a limited partner of Church Home Associates, LP, et al.,

Defendants.

08 - CV - 5646 (HB)

**DECLARATION IN
SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

M. Darren Traub, an attorney admitted to practice before this Court, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am associated with the law firm Herrick Feinstein, LLP, attorneys for defendants Robert W. Seavey, Phyllis M. Seavey, Avery B. Seavey, Nealle B. Seavey, Ronald Dawley, Dalton Management Company, LLC, and the Seavey Organization (the "Seavey defendants"). Marks, Paneth & Shron, LLP, sued here as "Marks, Paneth & Shron, Auditors" ("Marks Paneth") is represented by the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP. Pursuant to this Court's July 2, 2009, order [D.E. 66], one motion for summary judgment is being submitted on behalf of all Defendants. I submit this declaration in support of Defendants' motion pursuant to Federal Rule of Civil Procedure 56 seeking summary judgment dismissing the complaint in its entirety and granting judgment in favor of the Seavey Defendants on their counterclaims.

2. Attached hereto as Exhibit A is a copy of the Verified Complaint in this action filed by plaintiff on or about June 23, 2008 [D.E. 1].

3. By motion filed December 16, 2008, Marks Paneth moved to dismiss the complaint [D.E. 22]. That motion is fully briefed and is currently awaiting a decision by the court.

4. Attached hereto as Exhibit B is a copy of the Answer to the Verified Complaint with a Counterclaim filed by the Seavey Defendants on March 5, 2009 [D.E. 34].

5. Attached hereto as Exhibit C is a copy of the Answer to the Counterclaims filed by plaintiff on March 25, 2009 [D.E. 38].

6. Attached hereto as Exhibit D is a copy of the deposition of plaintiff John Edmonds, taken in connection with this action on April 17, 2009.

7. Attached hereto as Exhibit E is a copy of the deposition of plaintiff's accountant Orley Cameron, taken in connection with this action on April 21, 2009.

8. Attached hereto as Exhibit F is a copy of the deposition of plaintiff's accountant Adam Pryce, taken in connection with this action on April 22, 2009.

9. Attached hereto as Exhibit G is a copy of the deposition of defendant Ronald Dawley, taken in connection with this action on February 24, 2009.

10. Attached hereto as Exhibit H is a copy of the deposition of William H. Jennings, a representative of defendant Marks Paneth & Shron, taken in connection with this action on February 23, 2009.

11. For the reasons set forth in the accompanying memorandum of law, Defendants respectfully request that this court issue an order pursuant to Fed. R. Civ. P. 56 granting summary judgment dismissing the plaintiff's complaint in its entirety and granting the Seavey Defendants summary judgment on their counterclaims.

Dated: New York, New York
July 9, 2008



M. Darren Traub